

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER


DO NOT WRITE IN THIS SPACE

Case 32-A-278831

Date Filed 6/17/2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer CALIFORNIA COLLEGE OF THE ARTS		b. Tel. No. (b) (6), (b) (7)(C)	
		c. Cell No.	
		f. Fax No.	
d. Address (Street, city, state, and ZIP code) 5212 Broadway Oakland, CA 94618		e. Employer Representative Mike Vartain, Lawyer	
		g. e-Mail	
		h. Number of workers employed	
i. Type of Establishment (factory, mine, wholesaler, etc.) College		j. Identify principal product or service Education	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Within the six months immediately preceding the filing of this charge, the above-named employer, by and through its officers and/or agents, violated Sections 8(a)(1) and 8(a)(5) of the Act by failing and refusing to provide information and/or unreasonably delaying the production of information that is necessary and relevant to ongoing bargaining for a first contract and/or by unilaterally implementing changes to terms and conditions of employment without first providing the Union proper notice and reasonable opportunity to bargain about the decision and/or its effects.			
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Service Employees International Union, Local 1021			
4a. Address (Street and number, city, state, and ZIP code) 447 29 th Street, Oakland, CA 94609		4b. Tel. No. (510) 350-9811	
		4c. Cell No.	
		4d. Fax No.	
		4e. e-Mail	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Service Employees International Union			
6. DECLARATION		Tel. No. (510) 337-1001	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Office, if any, Cell No.	
		Fax No. (510) 337-1023	
(signature of representative or person making charge)		(Print/type name and title or office, if any)	
Address: Weinberg, Roger & Rosenfeld 1375 55 th Street, Emeryville, CA 94608		e-Mail mboigues@unioncounsel.net nlrbotices@unioncounsel.net	
June 17, 2021			
(date)			

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



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June 22, 2021

Mike Vartain, Lawyer
California College of the Arts
5212 Broadway
Oakland, CA 94618

Re: CALIFORNIA COLLEGE OF THE ARTS
Case 32-CA-278831

Dear Mr. Vartain:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney ANGELA M. HOLLOWELL-FUENTES whose telephone number is (510)671-3012. If this Board agent is not available, you may contact Supervisory Attorney CATHERINE VENTOLA whose telephone number is (510)671-3049.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

June 22, 2021

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

VALERIE HARDY-MAHONEY
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 32-CA-278831
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CALIFORNIA COLLEGE OF THE ARTS

Charged Party

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Charging Party

Case 32-CA-278831

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on June 22, 2021, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Mike Vartain, Lawyer
California College of the Arts
5212 Broadway
Oakland, CA 94618

June 22, 2021

Date

Vicky Luu, Designated Agent of NLRB

Name

/s/ V Luu

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



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Mobile App

June 22, 2021

Service Employees International Union, Local 1021
447 29th Street
Oakland, CA 94609

Re: CALIFORNIA COLLEGE OF THE ARTS
Case 32-CA-278831

Dear Sir or Madam:

The charge that you filed in this case on June 17, 2021 has been docketed as case number 32-CA-278831. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney ANGELA M. HOLLOWELL-FUENTES whose telephone number is (510)671-3012. If this Board agent is not available, you may contact Supervisory Attorney CATHERINE VENTOLA whose telephone number is (510)671-3049.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

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Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

June 22, 2021

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Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



VALERIE HARDY-MAHONEY
Regional Director

cc: Manuel A. Boigues, Union Attorney
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

SEIU Local 1021

and

California College of the Arts

CASE 32-CA-278831



REGIONAL DIRECTOR



EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570



GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

California College of the Arts

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:



REPRESENTATIVE IS AN ATTORNEY



IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Michael J. Vartain, Esq.

MAILING ADDRESS: Vartain Law Group, P.C., 601 Montgomery Street, Suite 780, SF, CA 94111

E-MAIL ADDRESS: mike@vartainlaw.com

OFFICE TELEPHONE NUMBER: (415) 391-1155

CELL PHONE NUMBER: _____ FAX: (415) 391-1177

SIGNATURE: _____

(Please sign in ink.)

DATE: July 27, 2021

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

INSTRUCTIONS:

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer CALIFORNIA COLLEGE OF THE ARTS		b. Tel. No. (b) (6), (b) (7)(C)	
		c. Cell No.	
		f. Fax No.	
d. Address (Street, city, state, and ZIP code) 5212 Broadway Oakland, CA 94618		e. Employer Representative Mike Vartain, Lawyer	
		g. e-Mail	
		h. Number of workers employed	
i. Type of Establishment (factory, mine, wholesaler, etc.) College		j. Identify principal product or service Education	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Within the six months immediately preceding the filing of this charge, the above-named employer, by and through its officers and/or agents, violated Sections 8(a)(1) and 8(a)(5) of the Act by unilaterally implementing changes to terms and conditions of employment without first providing the Union proper notice and reasonable opportunity to bargain about the decision and/or its effects.			
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Service Employees International Union, Local 1021			
4a. Address (Street and number, city, state, and ZIP code) 447 29th Street, Oakland, CA 94609		4b. Tel. No. (510) 350-9811	
		4c. Cell No.	
		4d. Fax No.	
		4e. e-Mail	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Service Employees International Union			
6. DECLARATION		Tel. No. (510) 337-1001	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Office, if any, Cell No. (510) 421-1765	
 (signature of representative or person making charge)		Fax No. (510) 337-1023	
Manuel A. Boigues, Union Attorney (Print/type name and title or office, if any)		e-Mail mboigues@unioncounsel.net nlrbnotices@unioncounsel.net	
Address: Weinberg, Roger & Rosenfeld 1375 55th Street, Emeryville, CA 94608		August 20, 2021 (date)	

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



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August 23, 2021

STEPHEN BEAL, PRESIDENT
CALIFORNIA COLLEGE OF THE ARTS
5212 BROADWAY
OAKLAND, CA 94618-1426

**Re: California College of The Arts
Case 32-CA-278831**

Dear Mr. Beal:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney ANGELA M. HOLLOWELL-FUENTES whose telephone number is (510)671-3012. If the agent is not available, you may contact Supervisory Attorney CATHERINE VENTOLA whose telephone number is (510)671-3049.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to

August 23, 2021

comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

Valerie Hardy-Mahoney
Regional Director

Enclosure: Copy of first amended charge

cc: MICHAEL J. VARTAIN, ESQ.
VARTAIN LAW GROUP PC
601 MONTGOMERY ST STE 780
SAN FRANCISCO, CA 94111-2608

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CALIFORNIA COLLEGE OF THE ARTS

Charged Party

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Charging Party

Case 32-CA-278831

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on August 23, 2021, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

STEPHEN BEAL, PRESIDENT
CALIFORNIA COLLEGE OF THE ARTS
5212 BROADWAY
OAKLAND, CA 94618-1426

MICHAEL J. VARTAIN, ESQ.
VARTAIN LAW GROUP PC
601 MONTGOMERY ST. STE 780
SAN FRANCISCO, CA 94111-2608

August 23, 2021

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
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August 23, 2021

NATO GREEN, UNION REPRESENTATIVE
SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021
350 RHODE ISLAND
SUITE 100 SOUTH BLDG.
SAN FRANCISCO, CA 94103-5188

**Re: California College of The Arts
Case 32-CA-278831**

Dear Mr. Green:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney ANGELA M. HOLLOWELL-FUENTES whose telephone number is (510)671-3012. If the agent is not available, you may contact Supervisory Attorney CATHERINE VENTOLA whose telephone number is (510)671-3049.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

August 23, 2021

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

Valerie Hardy-Mahoney
Regional Director

cc: MANUEL A. BOIGUES, ATTORNEY
WEINBERG ROGER & ROSENFELD
1375 55TH STREET
EMERYVILLE, CA 94608

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

CALIFORNIA COLLEGE OF THE ARTS

and

Case 32-CA-278831

**SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 1021**

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Service Employees International Union, Local 1021 (Union) against California College of the Arts (Respondent). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Respondent has violated the Act as described below.

1.

(a) The charge in this proceeding was filed by the Union on June 17, 2021, and a copy was served on Respondent by U.S. mail on June 22, 2021.

(b) The amended charge in this proceeding was filed on August 20, 2021, and a copy was served on Respondent by U.S. mail on August 23, 2021.

2.

(a) At all material times, Respondent, a California corporation, has been engaged in the provision of advanced educational services from its campuses located in San Francisco, California and Oakland, California.

(b) In conducting its operations described above in paragraph 2(a), during the 12-month period ending August 31, 2021, Respondent has derived gross revenues in excess of \$1,000,000.

(c) In conducting its operations described above in paragraph 2(a), Respondent has purchased and received goods from its California campuses valued in excess of \$5,000 directly from points outside the State of California.

3.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

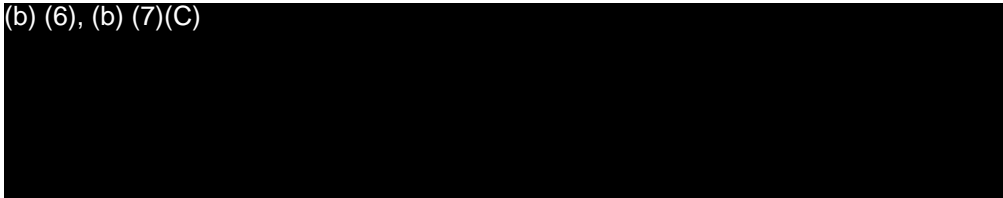
4.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5.

(a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors and/or agents of Respondent within the meaning of Section 2(11) of the Act and/or Section 2(13) of the Act:

(b) (6), (b) (7)(C)



6.

(a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full time and regular part-time CCA staff employed by the Employer at its campus located at 5212 Broadway in Oakland, California, its campus located at 1111 Eighth Street in San Francisco, California, and its campus located at 360 Kansas Street in San Francisco, California; excluding all other employees, ranked and unranked faculty and other instructional employees, temporary employees, volunteers, interns, student-employees, guards, confidential employees, managerial employees, and supervisors as defined by the Act.

(b) On April 29, 2019, the Board certified the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since April 29, 2019, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7.

(a) About May 5, 2021, during a bargaining session regarding the parties' negotiations for an initial collective-bargaining agreement, Respondent, by its attorney, presented a proposal seeking to include additional classifications of employees in the bargaining unit, including temporary and seasonal classifications.

(b) About May 19, 2021, Respondent eliminated the unit 2(D) Studio Output Lead Technician classification and reassigned those job duties to newly created unit positions.

(c) About May 19, 2021, Respondent, offered two furloughed unit employees previously employed in 2(D) Studio Output Lead Technician positions to return to work in newly created unit job classifications.

(d) Sometime during the summer of 2021, Respondent posted job openings and/or hired employees in newly created unit seasonal job classifications including the following: Digital Fine Arts Studio Manager, Studio Manager-Fashion Studio/Soft Lab, Digital Fabrication Studio Manager, Studio Manager-Printmedia, Ceramics Studio Manager, Studio Manager – Glass/Sculpture, and Studio Manager-Textiles/Sculpture.

(e) Respondent engaged in the conduct described above in paragraphs 7(b) through 7(d) without the Union's consent.

8.

(a) In the alternative to paragraph 7(e), the subjects set forth above in paragraphs 7(b) through 7(d) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(b) Respondent engaged in the conduct described above in paragraphs 7(b) through 7(d) without affording the Union the opportunity to bargain with respect to this conduct to an overall good-faith impasse.

9.

(a) By the conduct described above in paragraphs 7(b) through 7(e), or, in the alternative, by the conduct described in paragraphs 7(b) through 7(d) and 8(b), Respondent has been failing and refusing to bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of its Unit employees in violation of Section 8(a)(1) and 8(a)(5) of the Act.

10.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above in paragraph 7(b) through 7(e), or, alternatively, paragraphs 7(b) through (d) and 8(b), the General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, within 15 days of a Board Order, not less than twice a week, at least six hour per session, until an agreement or bona fide impasse is reached, and to submit sworn status reports to the Regional Director every 30 days showing in detail the nature and course of bargaining with the

Union and attaching any written communications between the parties with respect to such bargaining, and reimbursement of the Union's negotiation expenses incurred in remedying the unfair labor practices alleged in paragraph 7. As part of a remedy for the Respondent's unfair labor practices alleged above in paragraph 7(e), the General Counsel seeks an Order to restore the unit as it existed on April 29, 2019.

As a further part of the remedy, the General Counsel seeks an Order requiring that at a meeting or meetings scheduled to ensure the widest possible attendance, in accordance with COVID-19 safety protocols, Respondent's representative read the notice to the employees on work time in the presence of a Board agent (by videoconference or in person, at the discretion of the Regional Director) or, alternatively, to have a Board agent read the notice to employees in the presence of Respondent's supervisors and agents identified above in paragraph 5. As a further part of the remedy, the General Counsel seeks an Order requiring Respondent to offer to bargaining unit employees whose positions were eliminated to be reinstated to their former job positions and duties, and if those jobs no longer exist, to substantially equivalent positions and duties, including, if necessary, displacing any employees hired by Respondent to perform Unit work; and to make Unit employees whole for all losses they incurred as a result of the unfair labor practices described above, including, but not limited to, backpay for lost wages and reimbursement of any losses in health or other benefits they have suffered as a result of the unfair labor practices, and reasonable consequential damages incurred as a result of the Respondent's unlawful conduct. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Complaint. The answer must be **received by this office on or before October 11, 2021.** Respondent must serve a copy of the answer on each of the other parties.

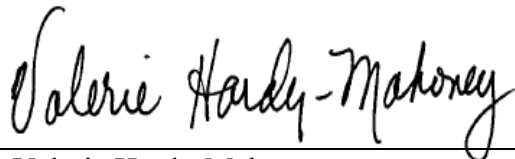
The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if

an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on December 14, 2021, at the Oakland Regional office located at 1301 Clay Street, 300N, Oakland, California, or through Zoom videoconference technology based on Covid-19 pandemic health and safety considerations, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED AT Oakland, California this 27th day of September 2021.

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

Valerie Hardy-Mahoney
Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 300N
Oakland, CA 94612-5224

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case 32-CA-278831

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request;

and

- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Stephen Beal, President
California College of the Arts
5212 Broadway
Oakland, CA 94618

Michael J. Vartain, Esq.
Vartain Law Group PC
601 Montgomery St., Ste 780
San Francisco, CA 94111

Nato Green, Union Representative
Service Employees International
Union, Local 1021
350 Rhode Island, Ste 100 South Bldg.
San Francisco, CA 94103

Manuel A. Boigues, Esq.
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

CALIFORNIA COLLEGE OF THE ARTS

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Case 32-CA-278831

Date: September 27, 2021

AFFIDAVIT OF SERVICE OF COMPLAINT AND NOTICE OF HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

Stephen Beal, President
California College of the Arts
5212 Broadway
Oakland, CA 94618
Email: sbear@cca.edu
SERVED VIA E-ISSUANCE

Nato Green, Union Representative
Service Employees International
Union, Local 1021
350 Rhode Island, Ste 100 South Bldg.
San Francisco, CA 94103
Email: nato.green@seiu1021.or
SERVED VIA E-ISSUANCE

(b) (6), (b) (7)(C)

eScribers
7227 N. 16th Street, Suite 207
Phoenix, AZ 85020

VIA E-MAIL: (b) (6), (b) (7)(C)

Michael J. Vartain, Esq.
Vartain Law Group PC
601 Montgomery St Ste 780
San Francisco, CA 94111
Email: mike@vartainlaw.com;
emelina@vartainlaw.com
SERVED VIA E-ISSUANCE

Manuel A. Boigues, Esq.
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608
Email: mboigues@unioncounsel.net;
nrbnotices@unioncounsel.net
SERVED VIA E-ISSUANCE

National Labor Relations Board
Division of Judges
901 Market Street, Suite 485
San Francisco, CA 94103
E-FILE

September 27, 2021

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case 32-CA-278831

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request;

and

- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Stephen Beal, President
California College of the Arts
5212 Broadway
Oakland, CA 94618

Michael J. Vartain, Esq.
Vartain Law Group PC
601 Montgomery St., Ste 780
San Francisco, CA 94111

Nato Green, Union Representative
Service Employees International
Union, Local 1021
350 Rhode Island, Ste 100 South Bldg.
San Francisco, CA 94103

Manuel A. Boigues, Esq.
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

CALIFORNIA COLLEGE OF THE ARTS

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Case 32-CA-278831

Date: September 27, 2021

AFFIDAVIT OF SERVICE OF COMPLAINT AND NOTICE OF HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

Stephen Beal, President
California College of the Arts
5212 Broadway
Oakland, CA 94618
Email: sbear@cca.edu
SERVED VIA E-ISSUANCE

Nato Green, Union Representative
Service Employees International
Union, Local 1021
350 Rhode Island, Ste 100 South Bldg.
San Francisco, CA 94103
Email: nato.green@seiu1021.or
SERVED VIA E-ISSUANCE

(b) (6), (b) (7)(C)

eScribers
7227 N. 16th Street, Suite 207
Phoenix, AZ 85020

VIA E-MAIL: (b) (6), (b) (7)(C)

Michael J. Vartain, Esq.
Vartain Law Group PC
601 Montgomery St Ste 780
San Francisco, CA 94111
Email: mike@vartainlaw.com;
emelina@vartainlaw.com
SERVED VIA E-ISSUANCE

Manuel A. Boigues, Esq.
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608
Email: mboigues@unioncounsel.net;
nrbnotices@unioncounsel.net
SERVED VIA E-ISSUANCE

National Labor Relations Board
Division of Judges
901 Market Street, Suite 485
San Francisco, CA 94103
E-FILE

September 27, 2021

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam

Attorneys for Respondent
CALIFORNIA COLLEGE OF THE ARTS

CALIFORNIA COLLEGE OF THE ARTS,) Case No.: 32-CA-278831

PROOF OF SERVICE

Complaint Filed: September 27, 2021
Hearing Date: December 14, 2021

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO**

3 I am employed in the County of San Francisco, State of California. I am over the age of
4 eighteen (18) years, and not a party to the within action. My business address is c/o Vartain Law
Group, 601 Montgomery Street, Suite 780, San Francisco, California 94111-2664.

5 On October 8, 2021, I served the foregoing documents described as

6 • **ANSWER TO COMPLAINT BY RESPONDENT CALIFORNIA COLLEGE OF
7 THE ARTS**

8 on all interested parties in this action by placing a true copy thereof enclosed in sealed
envelopes addressed as stated on the attached service list:

9 ☐ BY MAIL: I deposited such envelope in the mail at San Francisco, California. The
10 envelope was mailed with postage thereon fully prepaid. I am readily familiar with the
11 firm's practice of collection and processing correspondence for mailing. Under that
12 practice it would be deposited with the U.S. Postal Service on that same day with postage
thereon fully prepaid at San Francisco, California in the ordinary course of business. I am
13 aware that on motion of the party served, service is presumed invalid if postal cancellation
date or postage meter date is more than one (1) day after date of deposit for mailing in
affidavit.

14 ☒ BY ELECTRONIC MAIL: By transmitting a PDF version of this document by electronic
mail to the party(s) identified on the service list using the e-mail address(es) set forth
below.

15 ☐ BY OVERNIGHT DELIVERY: I deposited such envelope for collection and delivery by
16 express mail service with delivery fees paid or provided for in accordance with ordinary
17 business practices. I am readily familiar with the firm's practice of collection and
18 processing packages for overnight delivery. They are deposited with a facility regularly
maintained by the US Postal Service for receipt on the same day in the ordinary course of
business.

19 (State): I declare under penalty of perjury under the laws of the State of California that
20 the above is true and correct.

21 X (Federal): I declare that I am employed in the office of a member of the bar of this
Court at whose direction the service was made.

22 Executed on October 8, 2021, at San Francisco, California.

23 
24 _____
Charissa Ng

SERVICE LIST

***California College of the Arts and SEIU Local 1021
National Labor Relations Board, Region 32***

Nato Green, Union Representative
Service Employees International
Union, Local 1021
350 Rhode Island, Ste 100 South Bldg.
San Francisco, CA 94103
Email: nato.green@seiu1021

Manuel A. Boigues, Esq.
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608
Email: mboigues@unioncounsel.net;
nlrbnotices@unioncounsel.net

Catherine Ventola
National Labor Relations Board
1301 Clay Street, Suite 300N
Oakland, CA 94612-5224
Email: Catherine.Ventola@nlrb.gov

1 MICHAEL J. VARTAIN [SBN 92366]
2 ROSS J. VARTAIN [SBN Pending]
3 **VARTAIN LAW GROUP, P.C.**
4 601 Montgomery Street, Suite 780
San Francisco, CA 94111-2664
Telephone: [415] 391-1155
Facsimile: [415] 391-1177

5 Attorneys for Respondent
6 CALIFORNIA COLLEGE OF THE ARTS

7
8 UNITED STATES OF AMERICA
9
10 BEFORE THE NATIONAL LABOR RELATIONS BOARD
11 REGION 32
12

13 CALIFORNIA COLLEGE OF THE ARTS,) Case No.: 32 – C A – 278831
14)
15 and)
16) **ANSWER TO COMPLAINT BY**
17 SERVICE EMPLOYEES INTERNATIONAL) **RESPONDENT CALIFORNIA COLLEGE**
18 UNION, LOCAL 1021) **OF THE ARTS**
19)
20)
21)
22)

Complaint Filed: September 27, 2021
Hearing Date: December 14, 2021

CALIFORNIA COLLEGE OF THE ARTS (the "College") hereby answers the Complaint filed on September 27, 2021, as follows:

ANSWER

The College now answers said Complaint and each paragraph thereof as follows:

Answering Paragraph 1(a): The allegation is denied as to filing and service date. The remaining allegation is admitted.

Answering Paragraph 1(b): The allegation is denied as to filing and service date. The remaining allegation is admitted.

Answering Paragraph 2(a): The allegation is admitted.

Answering Paragraph 2(b): The allegation is admitted.

Answering Paragraph 2(c): The allegation is admitted.

Answering Paragraph 3: The allegation is admitted.

Answering Paragraph 4: The allegation is admitted.

Answering Paragraph 5(a): The allegation is denied as to titles. The remaining allegation is admitted.

Answering Paragraph 6(a): The allegation is admitted.

Answering Paragraph 6(b): The allegation is admitted.

Answering Paragraph 6(c): The allegation is admitted.

Answering Paragraph 7(a): The allegation is admitted that a written proposal was presented by Respondent to Union. The remainder of the allegation is denied.

Answering Paragraph 7(b): The allegation is denied.

Answering Paragraph 7(c): The allegation is denied.

Answering Paragraph 7(d): The allegation is admitted that in the summer 2021, the Respondent posted and hired for bargaining unit positions. The remainder of the allegation is denied.

Answering Paragraph 7(e): The allegation is denied.

Answering Paragraph 8(a): The allegation is denied.

Answering Paragraph 8(b): The allegation is denied.

1 Answering Paragraph 9: The allegation is denied.

2 Answering Paragraph 10: The allegation is denied. The request for remedy is denied.

3 **AFFIRMATIVE DEFENSES**

- 4 1. *Actions Consistent with Status Quo*: Respondent posted and hired during the summer
5 of 2021 for job vacancies within existing unit job classifications and at the existing
6 rates of pay, hours and other terms and conditions of employment of those job
7 classification.
- 8 2. *Actions Consistent with Section 8(a)(5)*: Respondent afforded the Union the
9 opportunity to participate in representing both of the two existing unit employees
10 whom Respondent invited to consider a voluntary transfer from furlough status. The
11 Union did not object to the transfers, which both employees voluntarily accepted.
- 12 3. *The Pandemic Exigency and Legitimate Business Needs*: Respondent had a legitimate
13 business need in connection with the Pandemic, to post the positions before
14 negotiations for a new Collective Bargaining Agreement could possibly be completed.
15 Respondent offered and intended that subsequent to posting, the parties continue to
16 negotiate to agreement.
- 17 4. *Discrete Issue and Not Material*: The issue for hearing does not involve a material
18 change in the unit terms and conditions and is discrete within the meaning of
19 applicable Board law.
- 20 5. *Deferral*: The binding arbitration provision of the Letter of Understanding between
21 the parties cover the material parts or all of the dispute and the matter can (and should)
22 be resolved by neutral labor arbitration in a manner consistent with the purposes of the
23 Act.

24 DATED: October 8, 2021

VARTAIN LAW GROUP, P.C.



26 BY:

27 MICHAEL J. VARTAIN
28 ROSS J. VARTAIN
Attorneys for Respondent
CALIFORNIA COLLEGE OF THE ARTS

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO BRANCH OFFICE**

CALIFORNIA COLLEGE OF THE ARTS

and

Case 32-CA-278831

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

ZOOM ORDER FOR DECEMBER 14, 2021 HEARING

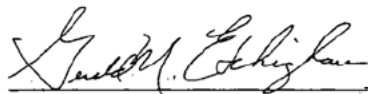
The hearing in the above-captioned case is scheduled to be held via Zoom for Government videoconference (ZoomGov) on Tuesday, December 14, 2021 at 9 a.m. Pacific Time (PT) as all of the parties have agreed that, because of the continuing risks presented by the Covid-19 coronavirus pandemic, compelling circumstances exist and the hearing should proceed via videoconference. As a result, I hereby **ORDER that the Zoom videoconference hearing in this matter will commence on Tuesday, December 14, 2021 at 9:00 a.m. PT and consecutive days thereafter, until the hearing closes.**

A Zoom hearing invitation containing all the protocols and instructions for the hearing and Zoom links along with the Meeting ID and Passcode will be issued and emailed to the parties the week before the hearing. To the extent any party files a request for special permission to appeal to this order under Rule 102.26 of the Board's Rules and Regulations, the hearing will proceed as scheduled pending the Board's resolution of such request.

For case participants, the following link from the United States District Court, Northern District of California, provides general information on using the Zoom based videoconference platform: <https://www.cand.uscourts.gov/zoom/>. For the public, press, and other nonparticipants ("attendees"), please follow the guidance set forth at the following link: <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-meeting>. Attendees will be able to see and/or hear the proceeding, as if they were sitting in a courtroom gallery.

IMPORTANT: Recording a Board proceeding held by video or teleconference, including "screen-shots" or other audio or visual copying of a hearing, is absolutely prohibited. Violations of these prohibitions may result in sanctions, including removal from the proceeding, restricted entry or denial of entry for future hearings, or any other sanctions deemed necessary by the presiding judge or the Board.

Dated: November 16, 2021, San Francisco, California.



Gerald M. Etchingham,
Administrative Law Judge

PROOF OF SERVICE

I hereby certify that I have this 16th day of November 2021, caused copies of the foregoing document entitled, **ZOOM ORDER FOR DECEMBER 14, 2021 HEARING**, to be delivered by electronic mail upon the following:

For the NLRB, Region 32:

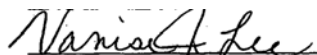
Angela M. Hollowell Fuentes, Esq.
Email: angela.hollowell-fuentes@nrlrb.gov

For the Respondent:

Michael J. Vartain, Esq.
Email: Mike@vartainlaw.com
(Vartain Law Group, P.C.)

For the Charging Party Union:

Manuel A. Boígues
Email: mboigues@unioncounsel.net
(Weinberg, Roger & Rosenfeld, P.C.)



Vanise J. Lee
Designated NLRB Agent

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO BRANCH OFFICE**

CALIFORNIA COLLEGE OF THE ARTS

and

Case 32-CA-278831

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

ZOOM ORDER FOR DECEMBER 14, 2021 HEARING

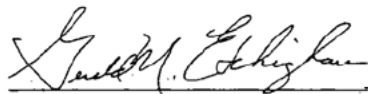
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Dated: November 16, 2021, San Francisco, California.



Gerald M. Etchingham,
Administrative Law Judge

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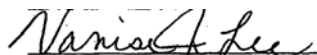
Angela M. Hollowell Fuentes, Esq.
Email: angela.hollowell-fuentes@nrlrb.gov

For the Respondent:

Michael J. Vartain, Esq.
Email: Mike@vartainlaw.com
(Vartain Law Group, P.C.)

For the Charging Party Union:

Manuel A. Boígues
Email: mboigues@unioncounsel.net
(Weinberg, Roger & Rosenfeld, P.C.)



Vanise J. Lee
Designated NLRB Agent

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

CALIFORNIA COLLEGE OF THE ARTS

and

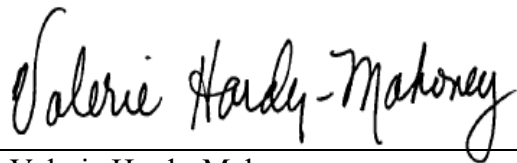
Case 32-CA-278831

**SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 1021**

ORDER RESCHEDULING HEARING

Pursuant to Section 102.16 of the Board's Rules and Regulations, **IT IS HEREBY ORDERED** that the hearing in the above matter, which is scheduled to commence on December 14, 2021, is being rescheduled to February 22, 2022, at 9:00 a.m., a date agreed to by all parties, and on consecutive days thereafter until concluded before an administrative law judge of the Board. This matter is being rescheduled pending the resolution of related Case 32-CA-281804.

DATED AT Oakland, California this 24th day of November 2021.

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Valerie Hardy-Mahoney
Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 300N
Oakland, CA 94612-5224

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

CALIFORNIA COLLEGE OF THE ARTS

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Case 32-CA-278831

Date: November 24, 2021

AFFIDAVIT OF SERVICE OF ORDER RESCHEDULING HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

Stephen Beal, President
California College of the Arts
5212 Broadway
Oakland, CA 94618
Email: sbeal@cca.edu
SERVED VIA E-ISSUANCE

Nato Green, Union Representative
Service Employees International
Union, Local 1021
350 Rhode Island, Ste 100 South Bldg.
San Francisco, CA 94103
Email: nato.green@seiu1021.or
SERVED VIA E-ISSUANCE

(b) (6), (b) (7)(C)

eScribers
7227 N. 16th Street, Suite 207
Phoenix, AZ 85020

VIA E-MAIL: (b) (6), (b) (7)(C)

Michael J. Vartain, Esq.
Vartain Law Group PC
601 Montgomery St Ste 780
San Francisco, CA 94111
Email: mike@vartainlaw.com;
emelina@vartainlaw.com
SERVED VIA E-ISSUANCE

Manuel A. Boigues, Esq.
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608
Email: mboigues@unioncounsel.net;
nlrbotices@unioncounsel.net
SERVED VIA E-ISSUANCE

National Labor Relations Board
Division of Judges
901 Market Street, Suite 485
San Francisco, CA 94103
E-FILE

November 24, 2021

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

CALIFORNIA COLLEGE OF THE ARTS

and

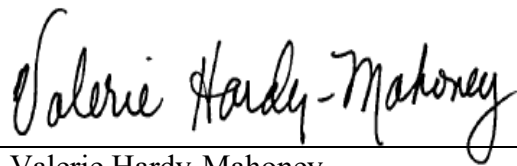
Case 32-CA-278831

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

ORDER POSTPONING HEARING PENDING A DECISION IN RELATED CASE

Pursuant to Section 102.16(a)(4) of the Board's Rules and Regulations, **IT IS HEREBY ORDERED** that the hearing in the above matter, which is scheduled to commence on February 22, 2022, is being postponed indefinitely pending the resolution of related Case 32-CA-281804, which is currently under review in the Division of Advice.

DATED AT Oakland, California this 21st day of January 2022.

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Valerie Hardy-Mahoney
Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 300N
Oakland, CA 94612-5224

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

CALIFORNIA COLLEGE OF THE ARTS

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Case 32-CA-278831

Date: January 21, 2022

**AFFIDAVIT OF SERVICE OF ORDER POSTPONING HEARING PENDING A
DECISION IN RELATED CASE**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

Stephen Beal, President
California College of the Arts
5212 Broadway
Oakland, CA 94618
Email: sbeal@cca.edu
SERVED VIA E-ISSUANCE

Nato Green, Union Representative
Service Employees International
Union, Local 1021
350 Rhode Island, Ste 100 South Bldg.
San Francisco, CA 94103
Email: nato.green@seiu1021.or
SERVED VIA E-ISSUANCE

(b) (6), (b) (7)(C)

eScribers
7227 N. 16th Street, Suite 207
Phoenix, AZ 85020
VIA E-MAIL: (b) (6), (b) (7)(C)

Michael J. Vartain, Esq.
Vartain Law Group PC
601 Montgomery St Ste 780
San Francisco, CA 94111
Email: mike@vartainlaw.com;
emelina@vartainlaw.com
SERVED VIA E-ISSUANCE

Manuel A. Boigues, Esq.
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608
Email: mboigues@unioncounsel.net;
nlrbotices@unioncounsel.net
SERVED VIA E-ISSUANCE

National Labor Relations Board
Division of Judges
901 Market Street, Suite 485
San Francisco, CA 94103
E-FILE

January 21, 2022

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

CALIFORNIA COLLEGE OF THE ARTS

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Case 32-CA-278831

Date: January 21, 2022

**AFFIDAVIT OF SERVICE OF ORDER POSTPONING HEARING PENDING A
DECISION IN RELATED CASE**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

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Email: mike@vartainlaw.com;
emelina@vartainlaw.com
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nlrbotices@unioncounsel.net
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National Labor Relations Board
Division of Judges
901 Market Street, Suite 485
San Francisco, CA 94103
E-FILE

January 21, 2022

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315

June 17, 2022

MICHAEL J. VARTAIN, ESQ.
VARTAIN LAW GROUP PC
601 MONTGOMERY ST STE 780
SAN FRANCISCO, CA 94111-2608

**Re: CALIFORNIA COLLEGE OF THE
ARTS
Cases 32-CA-278831
32-CA-286308**

Dear Mr. Vartain:

The Charging Party has asked to withdraw the above charges based upon a private agreement between the parties. I have approved this request, conditioned on the performance of the undertakings in that private agreement.

The charges are subject to reinstatement for further processing if the Charging Party requests reinstatement and supports its request with evidence of non-compliance with the undertakings in the private agreement.

Very truly yours,

Valerie Hardy-Mahoney
Regional Director

cc: STEPHEN BEAL, PRESIDENT
CALIFORNIA COLLEGE OF THE ARTS
5212 BROADWAY
OAKLAND, CA 94618-1426

NATO GREEN, UNION REPRESENTATIVE
SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021
350 RHODE ISLAND, SUITE 100 SOUTH BLDG.
SAN FRANCISCO, CA 94103-5188

MANUEL A. BOIGUES, ATTORNEY
WEINBERG ROGER & ROSENFELD
1375 55TH STREET
EMERYVILLE, CA 94608-2609

MIKE VARTAIN, LAWYER AND BARGAINING
SPOKESPERSON FOR SCHOOL
CALIFORNIA COLLEGE OF THE ARTS
5212 BROADWAY
OAKLAND, CA 94618

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021
447 29TH STREET
OAKLAND, CA 94609

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case **32-CA-286308**Date Filed **11-05-2021****INSTRUCTIONS:**

File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer CALIFORNIA COLLEGE OF THE ARTS		b. Tel. No. (b) (6), (b) (7)(C)
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 5212 Broadway Oakland, CA 94618	e. Employer Representative Mike Vartain, Lawyer and Bargaining Spokesperson for School	g. e-Mail
		h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) College	j. Identify principal product or service Education	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Within the six months immediately preceding the filing of this charge, the above-named employer, by and through its officers and/or agents, violated Sections 8(a)(1) and 8(a)(5) of the Act when it bargained in bad faith by bypassing and/or failing and refusing to deal with the Union's designated representatives about grievances and/or other terms and conditions of employment.		
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Service Employees International Union, Local 1021		
4a. Address (Street and number, city, state, and ZIP code) 447 29 th Street, Oakland, CA 94609		4b. Tel. No. (510) 350-9811
		4c. Cell No.
		4d. Fax No.
		4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Service Employees International Union		
6. DECLARATION		Tel. No. (510) 337-1001
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.  (signature of representative or person making charge)		Office, if any, Cell No.
Manuel A. Boigues , Union Attorney (Print/type name and title or office, if any)		Fax No. (510) 337-1023
Address: 1375 55 th Street, Emeryville, CA 94608		e-Mail mboigues@unioncounsel.net nlrbotices@unioncounsel.net
November 5, 2021 (date)		

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlr.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

November 16, 2021

MIKE VARTAIN, LAWYER AND BARGAINING
SPOKESPERSON FOR SCHOOL
CALIFORNIA COLLEGE OF THE ARTS
5212 BROADWAY
OAKLAND, CA 94618

**Re: CALIFORNIA COLLEGE OF THE
ARTS
Case 32-CA-286308**

Dear Mr. Vartain:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner HELEN YOON whose telephone number is (510)671-3051. If this Board agent is not available, you may contact Assistant to the Regional Director HOKULANI VALENCIA whose telephone number is (510)671-3047.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

November 16, 2021

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Valerie Hardy-Mahoney
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: MICHAEL J. VARTAIN, ESQ.
VARTAIN LAW GROUP PC
601 MONTGOMERY ST STE 780
SAN FRANCISCO, CA 94111-2608

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 32-CA-286308
-----------	-----------------------------

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CALIFORNIA COLLEGE OF THE ARTS

Charged Party

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021**

Charging Party

Case 32-CA-286308

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on November 16, 2021, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

MIKE VARTAIN, LAWYER AND BARGAINING
SPOKESPERSON FOR SCHOOL
CALIFORNIA COLLEGE OF THE ARTS
5212 BROADWAY
OAKLAND, CA 94618

MICHAEL J. VARTAIN, ESQ.
VARTAIN LAW GROUP PC
601 MONTGOMERY ST STE 780
SAN FRANCISCO, CA 94111-2608

November 16, 2021

Date

Ida Lam, Designated Agent of NLRB

Name

/s/ Ida Lam

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 32
1301 Clay St Ste 300N
Oakland, CA 94612-5224

Agency Website: www.nlrb.gov
Telephone: (510)637-3300
Fax: (510)637-3315



Download
NLRB
Mobile App

November 16, 2021

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1021
447 29TH STREET
OAKLAND, CA 94609

**Re: CALIFORNIA COLLEGE OF THE
ARTS
Case 32-CA-286308**

Dear Sir or Madam:

The charge that you filed in this case on November 05, 2021 has been docketed as case number 32-CA-286308. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner HELEN YOON whose telephone number is (510)671-3051. If this Board agent is not available, you may contact Assistant to the Regional Director HOKULANI VALENCIA whose telephone number is (510)671-3047.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

November 16, 2021

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Valerie Hardy-Mahoney". The signature is written in a cursive, flowing style.

Valerie Hardy-Mahoney
Regional Director

cc: MANUEL A. BOIGUES, ESQ.
WEINBERG, ROGER & ROSENFELD
1375 55TH STREET
EMERYVILLE, CA 94608

Copy of charge only sent to:

KERIANNE R. STEELE, ATTORNEY
WEINBERG ROGER & ROSENFELD
1375 55TH STREET
EMERYVILLE, CA 94608-2609